

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

December 15, 2000

Ref: ENF-L

BY FEDERAL EXPRESS

Tom Lewis, Esq.
Lewis, Huppert & Slovak, P.C.
P.O. Box 2325
725 3rd Avenue North
Great Falls, Montana 59403

Dear Mr. Lewis:

I am enclosing for your review two draft agreements which would compensate Mel and Lirah Parker for property damages incurred as a result of response actions performed by the U.S. Environmental Protection Agency ("EPA") pursuant to Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9604. The first of the draft agreements covers all property affected by EPA's response action, including, but not limited to, contaminated structures located on the Property which were demolished; contaminated personal items, business equipment and inventory which had to be disposed of; and provision of relocation expenses. The second draft agreement is the same as the first, but specifically excludes the contaminated buildings demolished as part of the response action, contemplating that EPA and the Parkers will continue to seek an adequate and accurate appraisal of the compensable value of those contaminated buildings. EPA is very willing to continue such an analysis to ensure that the value arrived at is justifiable under EPA's regulations and acceptable to the Parkers.

Please note that the dollar amount attributed to buildings and fixtures of \$411,000 has been reduced by \$10,125. The reduction is necessitated by the fact that EPA is installing the new permanent fence on the Parker property, at a significant cost, rather than compensating the Parkers for the old fence.

I take strong exception to the comments you have made in your last two letters. EPA's efforts to ensure that the Parkers are appropriately compensated are anything but "dilatatory." For the record, the Barrie analysis was commissioned by the Parkers, not EPA. EPA took time to independently review that analysis, so that it would be supportable under our regulations. It was not until after that review was complete that you informed me that the Parkers were dissatisfied with their own appraisal. Since that time, EPA has been working to identify other means to develop an adequate and appropriate appraisal of the value of the buildings. While you have not



had that Exhibits to the Agreement, you had the draft language of the agreement, as well as a fair understanding of the dollar values already established. I have not received any comments from you on the language provided to you in early October. EPA is working hard to ensure that the Parkers are treated fairly, while ensuring that statutory and regulatory requirements are met in providing such compensation.

You have requested that EPA retain the Barrie appraisal as a confidential document. To the degree that any component of that appraisal becomes the basis for compensation provided by EPA to the Parkers, EPA will be unable to restrict public access to that information. Fundamental to the CERCLA process is the creation and retention of a publicly available record supporting the response actions taken. If the Barrie appraisal serves in any way as the basis for the compensation, it must be available to the public. EPA will, however, continue to withhold this document until we have further discussions with you about its use.

As I discussed with you in our telephone conversation last Friday, EPA cannot provide the Parkers any kind of indemnification relating to trespass that may occur on their property during the winter. EPA has no statutory authority to do so. However, as I have previously indicated, EPA is, as part of the relocation assistance, purchasing liability insurance under which the Parkers would be beneficiaries. You indicated that this would be appropriate, so I am not quite sure why you have raised it again in your letter of December 7, 2000.

Please review the enclosed agreements and exhibits at your earliest convenience and provide me with suggested revisions that you might have.

Sincerely,



Matthew Cohn
Legal Enforcement Program

Enclosures

cc: Paul Peronard
Kelcey Land